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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TWB-204
Washington, D.C. 20554

> Re: In the Matter of: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98; Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket 98-147 - *Ex Parte Notification*

Dear Ms. Dortch:

On Thursday, October 10, 2002, the undersigned, along with Scott Sarem, Assistant Vice President, Regulatory, Mpower Communications, met with members of the Triennial Review Team, including Jeremy Miller, Rob Tanner, Ian Dillner, Mike Engel, Jeffrey Goldthorp and Aaron Goldberger, to discuss Mpower's position on various issues raised in the above-captioned dockets. The conversation focused on high-capacity loops, and interoffice transport, and Mpower expressed positions consistent with its comments and reply comments filed with the Commission in those dockets.

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In accordance with Section 1.1206 of the Commission's rules, an original and one copy of this letter is being submitted for filing with your office.

Respectfully submitted,

Ross A. Buntrock

cc   Jeremy Miller
      Robert Tanner
      Ian Dillner
      Mike Engel
      Jeffrey Goldthorp
      Aaron Goldberger
      Qualex International

October 10, 2002: CC Docket 01-338

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Communications

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Agenda

- Mpower: Company Overview
- Mpower's Triennial Review Issues
  - Appropriate impair test
  - Access to unbundled interoffice transport
  - Access to all flavors of unbundled loops

- Questions

Mpower Overview

- Mpower Communications Corp. – Rochester, NY
  - Facilities-based broadband communications company.
  - Offering a full range of data, telephony, Internet access and web hosting services primarily to small and medium size business customers.
  - We are currently collocated in 603 ILEC central offices.
  - Provide service in 28 metropolitan areas in 9 states.
  - Have approximately 500,000 lines in service.

Impair Test

- In this proceeding the Commission should readopt the five-part impairment test adopted in the UNE Remand Order in order to establish the UNEs that will continue to be made available

- Commission should set out national principles to govern application of "impair" test.

- The Commission must look at CLEC's real market alternatives for a particular element and Commission should take into consideration CLEC's real costs, including real cost of self provisioning.

- Commission should not use baseless "triggers" (i.e. number of alternative carriers, etc.)

Interoffice Transport and the Impair Test

- Mpower has conducted extensive study of availability of interoffice transport from 3rd parties
- There is no ubiquitous alterative in the markets Mpower serves.
- Most of alleged substitutes are really ILEC facilities being resold
- Very limited number of COs have competitive alternatives.
- Bottom line: Based upon study conducted by impair in preparation of Triennial Review comments, Mpower would be unable to serve over half of its existing collocations without unbundled interoffice transport.

Unbundled Loops

- No one seriously disputes that ILEC loops are the "only game in town."
- Replicating the ILECs' ubiquitous local loop architecture is a nearly insuperable task, as *Verizon* court noted
- There are no actual alternatives to unbundled xDSL-capable loops.
- VZ "no facilities" policy must be addressed.

Conclusion

- Questions?
- Comments?